# EXHIBIT 15

· »	Case 4:04-cv-00574-CW Document 117-1	5 Filed 04	4/13/05 Page 2 of 19	
1	KEKER & VAN NEST, LLP ELLIOT R. PETERS - #158708			
2	ETHAN A. BALOGH - #172224 DANIEL PURCELL - #191424			
3	STEVEN P. RAGLAND - #221076 710 Sansome Street			
4	San Francisco, CA 94111-1704			
5	Telephone: (415) 391-5400 Facsimile: (415) 397-7188			
6	Attorneys for Plaintiff JOHN TENNISON			
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8	UNITED STATES	DISTRICT	COURT	·
9	NORTHERN DISTR	ICT OF CA	LIFORNIA	
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11	JOHN TENNISON,	Case No.	C 04-00574 CW	
12	Plaintiff,	NOTICI	E OF DEPOSITION OF CI	ΤΥ
13	v.	UNDER	OUNTY OF SAN FRANCIS FEDERAL RULE OF CIV	IL
14	CITY AND COUNTY OF	PROCE.	DURE 30(b)(6)	
15	SAN FRANCISCO; SAN FRANCISCO POLICE DEPARTMENT; PRENTICE EARL	Date:	March 17, 2005	
16	SANDERS; NAPOLEON HENDRIX; and GEORGE BUTTERWORTH,	Time:	9:00 a.m.	
17	Defendants.			
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#### TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD IN THIS ACTION:

Please take notice that plaintiff John Tennison will take the deposition of defendant City and County of San Francisco ("the City") pursuant to Federal Rule of Civil Procedure 30(b)(6), beginning on March 17, 2005 at 9:00 a.m. and continuing from day to day thereafter until completed, at the offices of Keker & Van Nest, LLP, 710 Sansome Street, San Francisco, California 94111.

Please also take notice pursuant to Federal Rule of Civil Procedure 30(b)(2) that the deposition will be taken before a notary public or other officer authorized by law to administer oaths, and may be recorded both stenographically and by sound-and-visual means (i.e., by videotape), and provision may be made for real-time monitoring using LiveNote<sup>TM</sup> or similar means.

Please take further notice the deponent is not a natural person. The City shall designate for deposition, pursuant to Federal Rule of Civil Procedure 30(b)(6), one or more officers, managing agents, employees or other persons who consent to testify on its behalf. The matters on which examination is requested are set forth below.

#### **DEFINITIONS AND INSTRUCTIONS**

The following definitions and instructions apply to this notice of deposition:

- 1. "THE CITY," "YOU," or "YOUR" mean and refer to defendant City and County of San Francisco, and to any and all of its political subdivisions, agencies, programs, employees, agents, elected officials, representatives, consultants, accountants, and attorneys, including any person who has served in any such capacity at any time, and all persons acting or purporting to act on its behalf for any purpose.
- 2. "SFPD" means and refers to the Police Department of the City and County of San Francisco, and to any and all of its subdivisions, agencies, programs, task forces, employees, agents, representatives, consultants, accountants, and attorneys, including any person who has served in any such capacity at any time, and all persons acting or purporting to act on its behalf for any purpose.

- 3. "DA'S OFFICE" means and refers to the Office of the District Attorney of the City and County of San Francisco, and to any and all of its subdivisions, agencies, programs, task forces, employees, agents, representatives, consultants, accountants, and attorneys, including any person who has served in any such capacity at any time, and all persons acting or purporting to act on its behalf for any purpose.
  - 4. "BUTTERWORTH" means and refers to defendant George Butterworth.
  - 5. "HENDRIX" means and refers to defendant Napoleon Hendrix.
  - 6. "SANDERS" means and refers to defendant Prentice Earl Sanders.
  - 7. "TENNISON" means and refers to plaintiff John Tennison.
- 8. "SECRET WITNESS PROGRAM" means and refers to the program described by defendants HENDRIX and SANDERS in their October 4, 1989 memorandum to Lieutenant Gerald J. McCarthy of the SFPD, which memorandum was marked as Exhibit 38 to the deposition of HENDRIX in TENNISON's habeas case, <u>Tennison v. Henry</u>, Case No. C-98-3842 CW (N.D. Cal.) and is attached hereto as Exhibit A.
- 9. "CONTINGENT FUND B" means and refers to the program described in the September 2, 2003 letter from California Assistant Attorney General Glenn Pruden, counsel for the State of California in <u>Tennison v. Henry</u>, to Ethan A. Balogh, counsel for Tennison, which letter and its attachments are attached hereto as Exhibit B.
- 10. "EXCULPATORY EVIDENCE" means and refers to the category of evidence police and prosecutors are required to provide to criminal defendants under the United States Supreme Court's decision in <u>Brady v. Maryland</u>, 373 U.S. 83 (1963), and its progeny.
- 11. "RECORDING" means any recording of the event described, whether by video, audiotape, stenographic or other means.
- 12. "RELATING" and "RELATED" mean concerning, referring to, summarizing, reflecting, constituting, containing, embodying, pertaining to, involved with, mentioning, discussing, consisting of, comprising, showing, commenting on, evidencing, describing or otherwise relating to the subject matter.
  - 13. "ALL," "ANY," "EACH," or "EVERY" mean "all, each and every."

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files, ANY internal-affairs investigations regarding his employment conduct, and ANY citizen

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- 10. SANDERS's employment history with the CITY, INCLUDING his personnel files, ANY internal-affairs investigations regarding his employment conduct, and ANY citizen complaints of misconduct in the performance of his job duties.
- 11. ANY of YOUR policies and practices, including YOUR training and supervision of, and delegation of authority to, ANY of YOUR employees assigned to the SFPD or the DA'S OFFICE, RELATED to questioning of ANY person suspected of involvement in ANY crime. INCLUDING techniques used in such questioning.
- 12. ANY of YOUR policies and practices, including YOUR training and supervision of, and delegation of authority to, ANY of YOUR employees assigned to the SFPD or the DA'S OFFICE, RELATED to recantations or retractions of previously-made statements by ANY person suspected of involvement in ANY crime.
- 13. ANY of YOUR policies and practices, including YOUR training and supervision of, and delegation of authority to, ANY of YOUR employees assigned to the SFPD or the DA'S OFFICE, RELATED to confessions to crimes by ANY person, INCLUDING confessions by persons other than individuals previously investigated for, arrested for, charged with, or convicted of the same crime or crimes.
- 14. ANY of YOUR policies and practices, including YOUR training and supervision of, and delegation of authority to, ANY of YOUR employees assigned to the SFPD or the DA'S OFFICE, RELATED to making reports, RECORDINGS, or other memorializations of statements by ANY person suspected of involvement in ANY crime, including techniques used in memorializing such statements.
- 15. ANY of YOUR policies and practices, including YOUR training and supervision of, and delegation of authority to, ANY of YOUR employees assigned to the SFPD or the DA'S OFFICE, RELATED to interviews of actual, potential, suspected, or professed witnesses to ANY crime, INCLUDING techniques used in such questioning.
- 16. ANY of YOUR policies and practices, including YOUR training and supervision of, and delegation of authority to, ANY of YOUR employees assigned to the SFPD or the DA'S OFFICE, RELATED to recantations or retractions of previously-made statements by ANY

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actual, potential, suspected, or professed witnesses to ANY crime.

- 17. ANY of YOUR policies and practices, including YOUR training and supervision of, and delegation of authority to, ANY of YOUR employees assigned to the SFPD or the DA'S OFFICE, RELATED to making reports, RECORDINGS, or other memorializations of statements by ANY actual, potential, suspected, or professed witness to ANY crime, including techniques used in memorializing such statements.
- 18. ANY of YOUR policies and practices, including YOUR training and supervision of, and delegation of authority to, ANY of YOUR employees assigned to the SFPD or the DA'S OFFICE, RELATED to providing reward money to actual, potential, suspected, or professed witnesses to ANY crime, INCLUDING standards governing providing reward money to such witnesses, oversight over providing reward money to such witness, or training materials related to providing reward money to such witnesses.
- 19. ANY offer or actual payment of money to ANY actual, potential, suspected, or professed witness to ANY crime by HENDRIX.
- 20. ANY DOCUMENTS reflecting any offer or actual payment of money to ANY actual, potential, suspected, or professed witness to ANY crime by HENDRIX.
- 21. ANY offer or actual payment of money to ANY actual, potential, suspected, or professed witness to ANY crime by SANDERS.
- 22. ANY DOCUMENTS reflecting any offer or actual payment of money to ANY actual, potential, suspected, or professed witness to ANY crime by SANDERS.
- 23. The SECRET WITNESS PROGRAM, referred to in the memorandum attached as Exhibit A to this Notice of Deposition, INCLUDING ANY standards governing that program, oversight over that program, OR training materials related to that program.
- 24. ANY offer or actual disbursement of money from the SECRET WITNESS PROGRAM, at ANY time and for ANY purpose, by HENDRIX.
- 25. ANY DOCUMENTS reflecting any disbursement from the SECRET WITNESS PROGRAM requested by HENDRIX or in ANY investigation involving HENDRIX.

26.	ANY offer or actual disbursement of money from the SECRET WITNESS
PROGRAM, a	at ANY time and for ANY purpose, by SANDERS.

- 27. ANY DOCUMENTS reflecting any disbursement from the SECRET WITNESS PROGRAM requested by SANDERS or in ANY investigation involving SANDERS.
- 28. CONTINGENT FUND B, referred to in the letter attached as Exhibit B to this Notice of Deposition, INCLUDING ANY standards governing that program, oversight over that program, OR training materials related to that program.
- 29. ANY attempted or actual disbursement of money from CONTINGENT FUND B, at ANY time and for ANY purpose, by HENDRIX.
- 30. ANY DOCUMENTS reflecting any disbursement from the CONTINGENT FUND B involving HENDRIX.
- 31. ANY attempted or actual disbursement of money from CONTINGENT FUND B, at ANY time and for ANY purpose, by SANDERS.
- 32. ALL DOCUMENTS reflecting any disbursement from the CONTINGENT FUND B involving SANDERS.
- 33. Check number 4729 drawn on CONTINGENT FUND B on October 11, 1989 and made payable to SANDERS.
- 34. ALL DOCUMENTS RELATED to check number 4729 drawn on CONTINGENT FUND B on October 11, 1989 and made payable to SANDERS.
- 35. Check number 4897 drawn on CONTINGENT FUND B on December 1, 1989 and made payable to HENDRIX.
- 36. ALL DOCUMENTS RELATED to check number 4897 drawn on CONTINGENT FUND B on December 1, 1989 and made payable to HENDRIX.
- 37. ANY of YOUR policies and practices, including YOUR training and supervision of, and delegation of authority to, ANY of YOUR employees assigned to the SFPD or the DA'S OFFICE, RELATED to a police officer's or prosecutor's constitutional obligations in criminal prosecutions regarding witnesses, INCLUDING interviewing witnesses, preparing witnesses to testify in criminal proceedings, manufacturing evidence by witnesses, suppressing witnesses and

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their statements from evidence, or providing reward money to witnesses.

- 38. ANY of YOUR policies and practices, including YOUR training and supervision of, and delegation of authority to, ANY of YOUR employees assigned to the SFPD or the DA'S OFFICE, RELATED to polygraph examinations, INCLUDING the administration, execution. evaluation, analysis, documentation, and use of such examinations, and the creation and maintenance of records of such examinations.
- 39. The polygraph examination administered to Pauline Maluina by SFPD Inspector Henry Hunter on April 24, 1990.
- 40. The creation, maintenance, storage, handling, and distribution to the DA'S OFFICE of ANY RECORDING of the SFPD's April 24, 1990 polygraph examination of Pauline Maluina by SFPD Inspector Henry Hunter, INCLUDING the responsibility of the SFPD to deliver that RECORDING to the DA'S OFFICE.
- 41. ANY of YOUR policies and practices, including YOUR training and supervision of, and delegation of authority to, ANY of YOUR employees assigned to the SFPD or the DA'S OFFICE, RELATED to the handling of EXCULPATORY EVIDENCE in criminal prosecutions. INCLUDING the pursuit, discovery, collection, handling, maintenance, and dissemination of such evidence.
- ANY of YOUR policies and practices, including YOUR training and supervision of, and delegation of authority to, ANY of YOUR employees assigned to the SFPD or the DA'S OFFICE, RELATED to a police officer's or prosecutor's constitutional obligation in criminal prosecutions to disclose ALL EXCULPATORY EVIDENCE to counsel for the defendant.
- 43. The creation, maintenance, storage, handling, and distribution to the DA'S OFFICE of ANY RECORDING of the SFPD's November 7, 1990 interview with Lovinsky Ricard, INCLUDING the responsibility of the SFPD to deliver that RECORDING to the DA'S OFFICE.
- 44. The creation, maintenance, storage, handling, and distribution to the DA'S OFFICE of ANY RECORDING of the SFPD's January 3, 1990 interview with Chante Smith, INCLUDING the responsibility of the SFPD to deliver that RECORDING to the DA'S OFFICE.

PROOF OF SERVICE 1 2 I am employed in the City and County of San Francisco, State of California in the office of a member of the bar of this court at whose direction the following service was made. I am over the 3 age of eighteen years and not a party to the within action. My business address is Keker & Van Nest, LLP, 710 Sansome Street, San Francisco, California 94111. 4 On February 1, 2005, I served the following document(s): 5 NOTICE OF DEPOSITION OF CITY AND COUNTY OF SAN 6 FRANCISCO UNDER FEDERAL RULE OF CIVIL PROCEDURE 30(B)(6) 7 by COURIER, by placing a true and correct copy in a sealed envelope addressed as shown below, and 8 dispatching a messenger from Worldwide Attorney Services, Inc., whose address is 75 Lily Street, 3rd Floor, San Francisco, CA 94102, with instructions to hand-carry the above and make delivery to the following during normal business hours, by leaving the package with the person whose name is shown or 9 the person authorized to accept courier deliveries on behalf of the addressee. 10 James A. Quadra, Esq. Evan H. Ackiron 11 Lisa-Anne M. Wong, Esq. Scott D. Wiener Moscone, Emblidge & Quadra, LLP Deputy City Attorney 12 180 Montgomery Street, Suite 1240 Office of the City Attorney San Francisco, CA 94104 1390 Market Street, 6th Floor 13 Tel: (415) 362-3599 San Francisco, CA 94102-5408 Fax: (415) 362-7332 Tel: (415) 554-3856 14 Fax: (415) 554-3837 Attorneys for Defendants 15 Prentice Earl Sanders and Napoleon Hendrix Attorneys for Defendants George Butterworth and 16 The City and County of San Francisco 17 Randolph Daar, Esq. John Houston Scott, Esq. Pier 5 Law Offices The Scott Law Firm 18 506 Broadway 153 Townsend Street, Suite 950 19 San Francisco, CA 94133 San Francisco, CA 94107 (415) 986-5591 Tel: Tel: (415) 442-5100 20 Fax: (415) 421-1331 Fax: (415) 442-5108 21 Attorneys for Defendant Antoine Goff 22 Executed on February 1, 2005, at San Francisco, California. 23 I declare under penalty of perjury under the laws of the State of California that the above is true 24 and correct. 25 26

JOANNE WINARS

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# **EXHIBIT A**

Case 4:04-cv-00574-CW Document 117-15 Filed 04/13/05 Page 13 of 19

Memorandum

#### San Francisco Police Department

To:

Lieutenant Gerald J. McCarthy

OIC - Homicide Section

From:

Inspector Prentice E. Sanders, #901 Inspector Napoleon L. Hendrik, #1101

Date:

October 4, 1989

Subi:

SECRET WITNESS PROGRAM

Victim: Roderick E. Shannon

Case No. 891-092-371

APPROVED YES NO

At approximately 0205 hours on August 19, 1989, Roderick E. Shannon was severely beaten by a group of young Negro males, believed to be "gang" types. As the victim lay on the ground, begging for his life, he was shot execution style.

Based on information obtained through investigation, this appears to be a "gang related murder", growing out of the continuing rivalry between Hunters Point and Sunnydale youths.

The victim in this case was <u>mistakenly</u> identified as a member of the Sunnydale group.

In order to encourage witnesses to come forward, we request a reward of \$2,500.00 from the Secret Witness Program. We feel this reward will generate information that will lead to the arrest and conviction of the perpetrator(s) of this homicide.



SFPD 00026

## Memorandum

#### San Francisco Police Department

To:

Lieutenant Gerald J. McCarthy

OIC - Homicide Section

From:

Inspector Prentice E. Sanders,

Inspector Napoleon L. Hendrik, #1101

Date:

October 4, 1989

Sub]:

SECRET WITNESS PROGRAM

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FROM (UNITY DELICATION OF POLICE DEPARTMENT)  SAN FRANCISCO POLICE DEPARTMENT	39 (7/72)

# EXHIBIT B

BILL LOCKYER
Attorney General

## State of California DEPARTMENT OF JUSTICE



455 GOLDEN GATE AVENUE, SUITE 11000 SAN FRANCISCO, CA 94102-7004

> Public: (415) 703-5500 Telephone: (415) 703-5959 Facsimile: (415) 703-1162 E-Mail: Glenn.Pruden@doj.ca.gov

September 2, 2003

RECEIVED

SEP 0 3 2003 KEKER & VAN NEST

Ethan A. Balogh, Esq. KEKER & VAN NEST, LLP 710 Sansome Street San Francisco, California 94111-1704

RE: Tennison v. Henry, N.D. Cal. C 98-3842 CW

Dear Mr. Balogh:

Enclosed, please find copies of two ledger pages pertaining to San Francisco Police Department Contingent Fund B, Monthly Expenditures for 31 October 1989 and 31 December 1989, respectively. This information was provided to me by the San Francisco Police Department on 29 August 2003. Please note the entry at line 26 on the 31 October 1989 page, and the entry at line 3 on the 31 December 1989 page. I have been informed that the number "2" found immediately to the right of the amount indicates that the amount is non-reimbursable. I have also been informed that the entry in column four shows an internal accounting code for the comptroller.

Sincerely,

GLENN R. PRUDEN
Deputy Attorney General

For BILL LOCKYER Attorney General

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Case 4:04-cv-00574-CW Document 117-15 Filed 04/13/05 Page 18 of 19

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